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United States Senate

CHARLES E. GRASSLEY

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April 4, 2014

REPLY TO:

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The Honorable John Koskinen
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Koskinen:

The Patient Protection and Affordable Care Act (PPACA) included several reforms to nonprofit hospitals that were intended to hold them accountable for their tax-exempt status. These reforms were the culmination of a review of nonprofit hospitals I began in 2005 that revealed that the practices of many nonprofit hospitals were virtually indistinguishable from their for-profit counterparts. While these new provisions were intended to provide more oversight of nonprofit hospitals, it appears that not all of the requirements have been implemented.

The reforms in PPACA created new requirements for nonprofit hospitals. These include requiring hospitals to regularly complete a community needs assessment, establish and make public a financial assistance policy, and restricting certain billing and collection procedures used for those who qualify for financial assistance.¹ PPACA also created requirements for the Department of the Treasury, the Internal Revenue Service (IRS), and the Department of Health and Human Services (HHS) to ensure nonprofit hospitals comply with the law and provide information to Congress on the effectiveness of the provisions and whether any further legislation may be necessary.²

In June 2012, the Treasury Inspector General for Tax Administration (TIGTA) issued a report finding that much of the legal guidance required to be written by the federal government is still incomplete. While TIGTA found that the IRS had begun implementing the PPACA provisions, it noted that “until guidance is published, the public cannot be assured that the IRS has implemented all controls to ensure compliance with [PPACA] provisions designed to protect those served by tax-exempt hospitals.”³ To date, that guidance does not appear to be finalized.

¹ P.L. 111-148, § 9007.

² Id.

³ Treasury Inspector General for Tax Administration, “Affordable Care Act: While Much Has Been Accomplished, the Extent of Additional Controls Needed to Implement Tax-Exempt Hospital Provision is Uncertain,” June 21, 2012.

Committee Assignments:

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INTERNATIONAL NARCOTICS
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RANKING MEMBER,
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The PPACA also required the IRS and HHS to collect information on nonprofit hospitals and report to Congress every year. An annual report should have been issued to Congress for Fiscal Year 2012, but Congress never received any report. Congress has also yet to receive the report for Fiscal Year 2013. In TIGTA's 2012 report, it recommended that the IRS enter into a Memorandum of Understanding (MOU) with HHS in order to better coordinate the collection and sharing of information for the report. The IRS agreed with TIGTA's recommendation, but the MOU has not been finalized. As a result, Congress still does not have access to the information that was required to be reported by law. This raises serious concerns both about the oversight of nonprofit hospitals and the government's ability to faithfully execute laws passed by Congress.

In order to review the status of the IRS's work on nonprofit hospitals, I ask that you please provide the following information:

- 1) What is the status of the MOU between IRS and HHS?
- 2) When do you expect the MOU to be finalized?
- 3) Why hasn't there been an annual report to Congress regarding nonprofit hospitals, as required by law?
- 4) What is the status of the annual report? When can Congress expect to receive the Fiscal Year 2013 report?
- 5) What is the current status of regulations implementing the nonprofit hospital provisions of the PPACA? Please indicate what regulations, if any, are final, proposed, or have yet to be proposed. For any regulations that are not final also indicate where they are in the review process and expected timeline for completion.
- 6) The PPACA requires the IRS to conduct a review of the community benefit activities of nonprofit hospitals at least once every three years. TIGTA indicated in its June 2012 report the IRS had begun conducting these reviews. How many of the approximately 1,700 nonprofit hospitals has the IRS reviewed to date?
- 7) What were the results of the IRS's reviews of nonprofit hospitals? In responding to this question, please provide aggregate data on hospitals found to be in compliance, those found to be out of compliance, and the nature of the noncompliance.

Thank you for your cooperation and attention in this matter. I would appreciate a response by April 18, 2014. If you have any questions, please do not hesitate to contact Chris Conlin of my personal office staff at 202-224-3744 or Tegan Millspaw on my Judiciary Committee staff at 202-224-5225.

Sincerely,


Charles E. Grassley
U.S. Senator